

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1025 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 22-3-2-14 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. **(a) As used in this**
- 5 **section, "person" does not mean an owner who contracts for**
- 6 **performance of work on the owner's owner-occupied residential**
- 7 **property.**
- 8 ~~(a)~~ **(b)** The state, any political division thereof, any municipal
- 9 corporation, any corporation, limited liability company, partnership, or
- 10 person, contracting for the performance of any work exceeding one
- 11 thousand dollars (\$1,000) in value by a contractor subject to the
- 12 compensation provisions of IC 22-3-2 through IC 22-3-6, without
- 13 exacting from such contractor a certificate from the worker's
- 14 compensation board showing that such contractor has complied with
- 15 section 5 of this chapter, IC 22-3-5-1, and IC 22-3-5-2, shall be liable
- 16 to the same extent as the contractor for compensation, physician's fees,
- 17 hospital fees, nurse's charges, and burial expenses on account of the
- 18 injury or death of any employee of such contractor, due to an accident
- 19 arising out of and in the course of the performance of the work covered
- 20 by such contract.
- 21 ~~(b)~~ **(c)** Any contractor who shall sublet any contract for the
- 22 performance of any work, to a subcontractor subject to the
- 23 compensation provisions of IC 22-3-2 through IC 22-3-6, without
- 24 obtaining a certificate from the worker's compensation board showing
- 25 that such subcontractor has complied with section 5 of this chapter,
- 26 IC 22-3-5-1, and IC 22-3-5-2, shall be liable to the same extent as such
- 27 subcontractor for the payment of compensation, physician's fees,

1 hospital fees, nurse's charges, and burial expenses on account of the
2 injury or death of any employee of such subcontractor due to an
3 accident arising out of and in the course of the performance of the work
4 covered by such subcontract.

5 ~~(c)~~ (d) The state, any political division thereof, any municipal
6 corporation, any corporation, limited liability company, partnership,
7 person, or contractor paying compensation, physician's fees, hospital
8 fees, nurse's charges, or burial expenses under this section may recover
9 the amount paid or to be paid from any person who, independently of
10 such provisions, would have been liable for the payment thereof and
11 may, in addition, recover the litigation expenses and attorney's fees
12 incurred in the action before the worker's compensation board as well
13 as the litigation expenses and attorney's fees incurred in an action to
14 collect the compensation, medical expenses, and burial expenses.

15 ~~(d)~~ (e) Every claim filed with the worker's compensation board
16 under this section shall be instituted against all parties liable for
17 payment. The worker's compensation board, in an award under
18 subsection (a), shall fix the order in which said parties shall be
19 exhausted, beginning with the immediate employer, and, in an award
20 under subsection (b), shall determine whether the subcontractor has the
21 financial ability to pay the compensation and medical expenses when
22 due and, if not, shall order the contractor to pay the compensation and
23 medical expenses.

24 SECTION 2. IC 22-3-2-14.5 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14.5. (a) As used in this
26 section, "independent contractor" refers to a person described in
27 IC 22-3-6-1(b)(7).

28 (b) As used in this section, "person" means an individual, a
29 proprietorship, a partnership, a joint venture, a firm, an association, a
30 corporation, or other legal entity.

31 (c) An independent contractor who does not make an election
32 under IC 22-3-6-1(b)(4) or IC 22-3-6-1(b)(5) is not subject to the
33 compensation provisions of IC 22-3-2 through IC 22-3-6 and must file
34 a statement and obtain a validated affidavit of exemption under this
35 section.

36 (d) An independent contractor shall file with the worker's
37 compensation board, in the form prescribed by the worker's
38 compensation board, a statement providing the following information:

39 (1) The independent contractor's name, trade name, address, and
40 telephone number.

41 (2) The independent contractor's federal identification number
42 or Social Security number.

43 (e) An independent contractor shall pay a filing fee in the amount
44 of ~~five dollars (\$5)~~ **twenty dollars (\$20)** with the statement required
45 in subsection (d). The fees collected under this subsection shall be
46 deposited as follows:

47 (1) Fifty percent (50%) in the worker's compensation
48 supplemental administrative fund.

49 (2) Fifty percent (50%) into a special account in the state general
50 fund known as the independent contractor information account.
51 Money in the independent contractor information account is

annually appropriated to the department of state revenue for its use in carrying out the purposes of IC 6-3-7-5.

(f) The worker's compensation board shall keep each statement received under this section on file and on request may verify that a validated affidavit is on file.

(g) The affidavit of exemption required by this section must be on a form prescribed and provided by the worker's compensation board. An affidavit issued under this section is valid for one (1) year.

(h) An affidavit of exemption must certify the following information:

(1) That the independent contractor has worker's compensation coverage for the independent contractor's employees in accordance with IC 22-3-2 through IC 22-3-6.

(2) That the independent contractor desires to be exempt from being able to recover under the worker's compensation policy or self-insurance of a person for whom the independent contractor will perform work only as an independent contractor.

(i) An affidavit of exemption must be filed with the worker's compensation board. The board shall validate the affidavit by stamping the affidavit with the date of receipt and returning a validated copy to the person executing the affidavit. A validated affidavit becomes effective as of midnight ~~on the date received:~~ **seven (7) business days after the date of receipt by the worker's compensation board.** The board shall maintain the original affidavits filed and validated by the board.

(j) Not more than thirty (30) days after the worker's compensation board receives an independent contractor's statement, validated affidavit, and filing fee required by this section, the worker's compensation board shall provide the department of state revenue with a copy of the statement and validated affidavit.

(k) A person who contracts for services of another person not covered by IC 22-3-2 through IC 22-3-6 to perform work must secure a copy of a validated affidavit issued under this section from the person hired. A person may not require a person who has provided a validated affidavit to have worker's compensation coverage. The worker's compensation insurance carrier of a person who contracts with an independent contractor shall accept a validated affidavit in the same manner as a certificate of insurance.

(l) An affidavit validated under this section is binding on and holds harmless from all claims:

(1) a person who contracts with an independent contractor after receiving a copy of the validated affidavit; and

(2) the worker's compensation insurance carrier of the person who contracts with the independent contractor.

The independent contractor may not collect compensation under IC 22-3-2 through IC 22-3-6 for an injury from a person or the person's worker's compensation carrier to whom the independent contractor has furnished a validated affidavit.

(m) A contractor who knowingly and intentionally causes or assists employees, including temporary employees, to file an

- 1 **affidavit of exemption commits a Class D felony."**
- 2 Renumber all SECTIONS consecutively.
(Reference is to HB1025 as printed January 25, 2001.)

Representative SMITH M